

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 27<sup>th</sup> DAY OF AUGUST, 2018****BEFORE****HON'BLE MR.JUSTICE DINESH MAHESHWARI, CHIEF JUSTICE****WRIT PETITION NO.12122 OF 2018 (GM-CPC)****BETWEEN:**

SRI B SRINIVASA ACHARYA,  
AGED ABOUT 52 YEARS,  
S/O LATE KRISHNA ACHARYA,  
H.NO.5-465, LAXMIKANTHA NILAYA,  
VISHNUMOORTHU NAGAR,  
BUDNAR,  
SHIVALLI VILLAGE, PO KUNJIBETTU,  
UDUPI – 576 102.

... PETITIONER

(BY SRI. NATARAJA BALLAL A, ADVOCATE)

**AND:**

1. SRI MANJUNATH,  
AGED ABOUT 56 YEARS,  
S/O LATE KRISHNA ACHARYA,  
RESIDING AT BUDNAR,  
SHIVALLI VILLAGE,  
POST KUNJIBETTU,  
UDUPI TALUK – 576 102.

2. SRI SUBRAMANYA KARANTHA,  
AGED ABOUT 45 YEARS,  
S/O GOPALA KARANTHA,  
DR. TMA PAI COLLEGE,  
QTS. NO.8, SHIVALLI VILLAGE,  
POST KUNJIBETTU,  
UDUPI – 576 102.

... RESPONDENTS

(BY SRI. K SHRIHARI, ADVOCATE)

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THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF  
THE CONSTITUTION OF INDIA PRAYING TO QUASH THE

ORDER DATED 06.01.2018 PASSED ON I.A.NO.6 IN O.S. NO.166/2014 (ANNEXURE – A) AND THEREBY ALLOW THE APPLICATION FILED BY THE PETITIONER/PLAINTIFF UNDER ORDER 6 RULE 17 OF THE CPC AND ETC.,

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT, MADE THE FOLLOWING:

### **ORDER**

Having heard learned counsel for the parties and having perused the material placed on record, though it appears that the application filed by the plaintiff/petitioner seeking leave to amend the plaint has not dealt with on relevant considerations but, this Court is not inclined to interfere with the order impugned in the overall circumstances of the case, and particularly looking to the fact that if the amendment prayed for is allowed at this stage, it may entail a different inquiry with even addition of the new parties to the suit.

However, in the interest of justice, it is made clear that the foregoing are only the tentative and *prima facie* observations of this Court on the prayer for amendment of the plaint.

In the totality of circumstances, while not interfering with the order impugned under Article 227 of the Constitution of

India, this Court finds it just and proper to leave it open for the petitioner to take recourse to appropriate remedies in accordance with law, including questioning the order impugned in eventual appeal that may be filed against the decree to be passed in the suit.

Subject to the observations foregoing, the petition stands dismissed.

**Sd/-  
CHIEF JUSTICE**

ykl